



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

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BOSTON, MASSACHUSETTS 02114-2023

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July 16, 2007

Alan S. McKim, Chairman and CEO
Clean Harbors of Braintree, Inc.
42 Longwater Drive
Norwell, Massachusetts 02061

Dear Mr. McKim:

This letter is to inform you that the U.S. Environmental Protection Agency (EPA) has determined that conditions exist at the Clean Harbors of Braintree, Inc., facility in Braintree, Massachusetts, MAD053452637, (hereinafter the facility) which render the facility immediately unacceptable for the receipt of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) waste from CERCLA removal or response actions. The facility shall remain unacceptable until such time as EPA Region 1 notifies you otherwise in writing. This determination is made under EPA's procedures for planning and implementing off-site response actions (40 CFR § 300.440; 58 FR 49200, 49215 – 49218, September 22, 1993)) (hereinafter the Off-site Rule) (copy enclosed). EPA based this determination upon the conditions documented at the facility that may present an imminent and substantial endangerment to health or the environment arising from past or present handling, storage, treatment or disposal of solid waste and hazardous waste and which are subject to a July 11, 2007 Administrative Order (Docket No. 2007-I-RCRA-AO-001) issued pursuant to Section 7003(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6973(a). A "substantial threat of release" is one of the thresholds for determining facility non-acceptability with the Off-Site Rule (58 FR 49209(D)(1)). EPA is invoking this determination because the intent of the Off-Site Rule is that CERCLA wastes be transferred only to environmentally-sound facilities, and that they not add to environmental problems (58 FR 49209).

EPA has decided that pursuant to 40 CFR § 300.440(d)(9), the facility's unacceptability is immediate because of the extraordinary situation created by the imminent and substantial endangerment threats to health and the environment posed by the facility. As documented in the Administrative Order, conditions at the facility do not meet statutory or regulatory requirements and may present an immediate risk to health or the environment and indicate that the facility is unable to safely manage wastes.

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Relevant Conditions at the Facility

From June 25 to June 29, 2007, authorized inspectors from EPA and the Massachusetts Department of Environmental Protection (MA DEP) conducted a multimedia inspection at the facility and observed the following conditions:

1. In the drum storage areas, drums containing acidic, alkaline and organic hazardous wastes were stored in close proximity to one another without adequate means of segregation;
2. In the tank farm area, numerous tanks, including tanks labeled as Tanks A1, A5, A11, B1, B3 and B7, which had been decertified for use as hazardous waste storage tanks by a registered professional engineer, were found to contain hazardous waste and to have holes, seepage or observed structural deformity and other evidence of deterioration which compromised their structural integrity. In addition, tanks labeled as Tanks A3 and A10, which had been decertified for use as hazardous waste storage tanks by a registered professional engineer, were found to have holes, seepage or structural deformity and other evidence of deterioration which compromised their structural integrity;
3. In the tank farm area, numerous tanks, including tanks labeled as Tanks A2, A4, A5, A7, A8, A9, A11, B2, B3, B4, B5, B6 and B9, were found to contain hazardous waste and to have improperly operating high level alarms. All of the tank volume level alarms for these tanks, except B3, incorrectly showed that the tanks were full. Tank B3 was full at the time of the inspection and the high level alarm indicator did not correctly show that;
4. In the tank farm area, Tank A3, which was empty, had a high level alarm that incorrectly indicated that the tank was full;
5. In the tank farm area, the tank labeled as Tank A4 was found to contain hazardous waste and to have evidence of air emission leaks;
6. The secondary containment systems surrounding numerous hazardous waste storage areas, including the tank farm area, the hazardous and non-hazardous waste solids management area within the dike wall, and the hazardous waste storage areas of Buildings 4 and 6, were found to have cracks and other conditions which compromised the integrity of such systems;
7. The secondary containment systems surrounding numerous hazardous waste storage areas, including the tank farm area and the hazardous waste storage areas of Building 4, were found to be covered with dirt and other materials such that the integrity of such systems could not be observed;
8. The facility's waste tracking system was incapable of consistently providing accurate information on the type and location of the hazardous wastes stored at the facility.

The conditions listed above are "relevant violations" under the criteria of 40 CFR § 300.440(b)(1)(ii) because the observed conditions that may present "an imminent and substantial endangerment to health or the environment" are outside of the scope of the operations allowed under federal and state standards and are therefore "significant deviations from regulations, compliance order provisions, or permit conditions designated to: ensure that CERCLA waste is destined for and delivered to authorized facilities; prevent releases of hazardous constituents, or hazardous substances to the environment; ensure early detection of such releases; or compel corrective action for such releases."

Your response to this letter

If you submit a written request for an informal conference with EPA Region 1 within ten days from the date of this letter, EPA will provide the opportunity for such conference no later than 30 days from the date of this letter, if possible, to discuss the basis for the underlying violation and release determination, and its relevance to the facility's acceptability to receive CERCLA wastes. Your written response should be addressed to our Regional Off-site Contact at the following address:

Mel Cheeks
Regional Off-site Contact
U.S. Environmental Protection Agency
Region 1
One Congress Street, Suite 1100 (MC SER)
Boston, MA 02114

State representatives may attend the informal conference, submit written comments prior to the informal conference, and/or request additional meetings with the Regional office, relating to the unacceptability issue. If no state representative is present, EPA shall notify the state of the outcome of the conference.

You may submit written comments on or before the thirtieth day after the date of this letter, in addition to or instead of requesting an informal conference. Written comments should be addressed to Mr. Cheeks at the address given above. If you neither request an informal conference nor submit written comments, the facility will remain unacceptable for the receipt of CERCLA wastes until such time as we notify you that the facility is acceptable.

If an informal conference is held, or you submit written comments within the time limits described above, we will determine whether the information you may provide is sufficient to show that the facility is operating in physical compliance with respect to the relevant violations listed above, and whether the information you provide is sufficient to show that the relevant violations described herein have been eliminated or addressed, as described in 40 CFR § 300.440, such that a determination of acceptability would be appropriate. EPA will notify you in writing whether or not the information you may provide is sufficient to support a determination of acceptability. Within ten days of such

written notification, you or the state may request from me a reconsideration of an unacceptability determination. Pursuant to EPA Region 1 procedures, I will review the unacceptability determination based upon the written administrative record. You will be given an opportunity to review the administrative record, and add to the record, prior to my review.

This letter is being sent by both certified mail and first class mail, in order to ensure that you receive it promptly. If you have any questions regarding this letter you may write to me, or contact Mr. Mel Cheeks at (617) 918-1752. Legal questions should be addressed to Senior Enforcement Counsel David Peterson at (617) 918-1891.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert W. Varney", followed by a long horizontal line that ends in a loop.

Robert W. Varney
Regional Administrator

Enclosure

cc: Mel Cheeks, EPA
David Peterson, EPA
Steven DeGabriele, MA DEP